

6224

RECORDATION NO. \_\_\_\_\_ Filed &amp; Recorded

BILL OF SALE

JUL 8 - 1971 - 2 20 PM

INTERSTATE COMMERCE COMMISSION

THIS CONTRACT dated as of the 1st day of July, 1971, by and between MARATHON LEASING COMPANY, a corporation organized and existing under the laws of the State of Delaware (hereinafter called "Seller"), and BANK OF THE SOUTHWEST NATIONAL ASSOCIATION, HOUSTON, a national banking association incorporated and existing under the laws of the United States, as Trustee (hereinafter called "Buyer").

In consideration of \$540,000, in hand paid, receipt of which is hereby acknowledged, Seller does hereby sell and convey to Buyer the railroad tank cars described in Exhibit "A" attached as an exhibit hereto and made a part hereof for all purposes.

Seller hereby warrants that it has title to the described property and that the described property is free from all liens and encumbrances (including any leasehold interest) other than the lease to Shell Oil Company attached as Exhibit "B"; and Seller further agrees to forever warrant and defend the title to the described property unto Buyer, its successors and assigns, against all lawful claims.

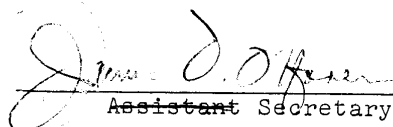
MARATHON LEASING COMPANY

By

~~Vice~~ President

[SEAL]

ATTEST:

  
Assistant Secretary

THE STATE OF TEXAS §  
§  
COUNTY OF HARRIS §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared PT. M. M. M., known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of MARATHON LEASING COMPANY, a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 7th day of July, 1971.

*Erlyss Gunstenson*  
NOTARY PUBLIC in and for  
Harris County, T e x a s

ERLYSS GUNSTENSON

Notary Public, State of Texas

My Commission Expires on July 3, 1973

EXHIBIT "A"

DESCRIPTION OF TRUST EQUIPMENT

<u>QUANTITY</u>	<u>CLASS</u>	<u>CAPACITY IN GALLONS</u>	<u>INITIALED AND CAR NUMBERS</u>
33 Tank Cars	DOT 112A340W	33,500	RTMX 3000 Through 3032
7 Tank Cars	DOT 112A340W	33,500	RTMX 3033 Through 3039

## MARATHON LEASING COMPANY

## Tank Car Lease and Service Contract

THIS AGREEMENT, made this 1 day of July, 1970, by and between MARATHON LEASING COMPANY, a Delaware corporation, having its principal office at 801 Houston Natural Gas Building, Houston, Harris County, Texas, hereinafter called "Lessor", and SHELL OIL COMPANY, a Delaware corporation, having its principal office at Houston, Texas (P. O. Box 2099, 77001), hereinafter called "Lessee",

## W I T N E S S E T H:

Lessor agrees to lease to the Lessee, and the Lessee hereby leases and hires from the Lessor and agrees to accept delivery of, upon the terms and conditions herein set forth, the following described tank cars (hereinafter referred to as the "cars", reference to which shall include singular as well as plural cars) for the use of each of which cars the Lessee agrees to pay to the Lessor the following rental and service charges:

Number of CarsType

Forty (40)

DOT Class 112A340W 33.5 MG

Rental & Service Charge Rates

Two hundred and seventy dollars (\$270.00) per car per month, except that if this lease is terminated prior to the end of its five-year term, as provided hereinafter, Lessee agrees to pay an additional rental per car per month (effective retroactively) for each month that the lease is in force, as set out in the following schedule:

Cars held over 48 but less than 60 months -	\$ 2.50
Cars held over 36 but less than 48 months -	\$ 5.00
Cars held over 24 but less than 36 months -	\$10.00
Cars held over 12 but less than 24 months -	\$15.00

Term. The term of this lease respecting each car commences on the date of delivery of such car to Lessee (hereinafter called "Effective Date") and shall continue in effect for a period of five years, provided that after the initial twelve months of the lease, Lessee may terminate this lease upon giving sixty days prior written notice, subject to the rates of the above rate schedule. Notwithstanding the expiration or termination of this lease by notice or otherwise, it shall continue in effect with regard to each car until returned to possession of Lessor.

Payment. Lessee agrees to pay said rentals and service charges to Marathon Leasing Company at the principal office located in Houston, Harris County, Texas, on the first day of each calendar month in advance, without deduction, except that the Lessee shall pay in advance on the delivery of each car respectively a pro rata portion of one month's rent for the period intervening the date of delivery and the first of the next succeeding calendar month and shall pay only the pro rata portion of such monthly charge attributable to any fractional month accruing at the termination of this lease.

Delivery. Each of the cars shall be delivered to the Lessee at such points and dates as will be designated by Lessee. The obligation of Lessor to furnish the cars shall be subject to all causes reasonably beyond the control of Lessor, including, but not limited to, delays caused by fire, labor difficulties, delays of carriers and materialmen or governmental authority; and Lessor shall not be

liable for any damages by reason of any such delay.

Inspection of Car. Each of the cars shall be subject to Lessee's inspection before loading; and the loading of such car shall constitute acceptance thereof by Lessee, and shall be conclusive evidence of the fit and suitable condition of such car for the purpose of transporting the commodities then and thereafter loaded therein.

Damage to Car Resulting from Lading. In the event the tank of any of the cars, or the fittings or appurtenances thereto, shall become damaged by the commodity loaded therein, Lessee agrees to assume the responsibility for such damage.

Alteration and Lettering. Lessee will preserve the cars in good condition and will not in any way alter the physical structure of the cars without the advance approval in writing of Lessor. Lessee will place no lettering or marking of any kind upon the cars without Lessor's prior written consent, except that, for the purpose of evidencing the operation of the cars in Lessee's service hereunder, Lessee will be permitted to board, placard or stencil the cars with letters not to exceed two inches (2") in height.

Maintenance. Lessor agrees to maintain each of the cars in good condition and repair according to the Code of Rules of the Association of American Railroads, and Lessee agrees to forward the cars to the shops of Lessor for periodic maintenance repairs as may be directed by Lessor. No repairs to any of the cars shall be made by

Lessee without Lessor's prior written consent, except that Lessee shall at its expense replace any removable tank parts (dome covers, outlet caps, etc.) if lost or broken. If any of the cars shall be completely destroyed, or if the physical condition of any car shall become such that such car cannot be operated in railroad service as determined by Lessor, then Lessor may at its option cancel this lease as to such car as of the date on which such event occurred, or may substitute with the consent of the Lessee therefor another car within a reasonable period of time, and in the event of such substitution, the substituted car shall be held pursuant to all the terms and conditions of this agreement. When cars are placed in a shop for maintenance and/or repair at the direction of Lessor, the rental charges on each car shall cease on the date of notification by Lessee and will be reinstated on the date such car is forwarded from shop and/or date such car is ready to leave such shop. If a car is in need of repairs while in route and is placed in railroad shops for repair, then after the lapse of five days the rent on the cars so placed shall cease until such cars are returned to Lessee's service. If any repairs are required as a result of the misuse by or negligence of Lessee, its consignee, agent or sublessee, the rental charge shall continue during the rental period.

Indemnity. Lessee will indemnify Lessor against any loss, damage or injury caused during the term of this lease by any of the cars hereby leased, or to or by the contents

thereof, howsoever occurring, except any such loss, damage or injury resulting solely from any negligent act or omission of the Lessor or of any railroad company, and will indemnify Lessor against any loss or damage suffered by Lessor by reason of, or arising out of, any default by Lessee.

Return of Cars. Upon the expiration or termination of this lease Lessee agrees to return each of the cars in good working order, ordinary wear and tear excepted, to Lessor at the loading point or at a point mutually agreed upon, free from residue, and to give Lessor advance written notice of such return. Lessee shall on demand reimburse Lessor for the cost of cleaning any cars containing residue.

Reports and Mileage. Lessor shall collect all mileage earned by the cars and shall credit to the rental account of Lessee for each accounting period (as defined) such mileage earned by the cars while in the service of Lessee, as and when received from the railroads according to, and subject to, all rules of the tariffs of the railroads, but only to the extent of the aggregate rental charges payable hereunder for such year. The term "accounting period", as used in this contract, is defined to mean each period of twelve (12) consecutive months within the term of this contract ending on the anniversary of the effective date hereof, and any period from the last such twelve (12) months period to the date of expiration of this contract. Lessee shall give Lessor monthly reports of the



movements of the cars, giving destination, date and routing of each movement.

Excess Empty Mileage. Lessee agrees so to use the cars that their mileage under load shall be equal to their mileage empty upon each railroad over which the cars move; and, upon the expiration or termination of this agreement, should the empty mileage of the cars upon any railroad exceed the loaded mileage of the cars on such railroad, Lessee agrees to pay Lessor, as an additional rental, for such excess of empty mileage, at the rates established by the tariffs of the railroad upon which such excess is incurred. Lessor agrees to furnish to Lessee proof that it has been billed by the railroad for such mileage.

Taxes and Liens. Lessor agrees to pay all property taxes levied upon the cars and to file all property tax reports relating thereto.

Assignment. Lessee agrees to use the cars exclusively in Lessee's own service within the boundaries of the continental United States (exclusive of Alaska and Hawaii), Canada, and Mexico, and to make no transfer, or assignment of this agreement, or sublease of the cars, without Lessor's prior written consent, except that Lessee shall have the right to sublease any of the cars, for single trips, to its customers, or to its suppliers, and to cause such cars so subleased to be boarded or placarded with the names of the sublessees in accordance with the provisions of demurrage tariffs lawfully in effect, where the sole

purpose of such subleasing is to obtain an exemption from demurrage for said cars so subleased, provided, however, that notwithstanding any such sublease, Lessee shall continue to remain liable to Lessor under this lease, and provided further that Lessor shall have the right to withdraw this privilege of subleasing at any time.

Subject always to the foregoing, this lease inures to the benefit of, and is binding upon, the Lessor, its successors, and assigns, and the Lessee, Lessee's legal representative and successors and assigns.

Default. It is mutually agreed that the time of payment of rentals is of the essence of this contract and that if the Lessee shall make default in the payment of rentals for the cars at the time when same become due and payable or shall make default in the performance or observance of any of the other agreements herein contained and by Lessee to be performed or observed and such default shall continue for ten (10) days, or there shall be filed by or against Lessee a petition in bankruptcy or for reorganization under the Bankruptcy Law or there shall be a receiver appointed of any part of Lessee's property or Lessee shall make a general assignment for the benefit of creditors, then and in any of said events Lessor, at its election, may terminate this lease and repossess itself of said cars and this lease shall thereupon become and be terminated, or Lessor may repossess itself of said cars and re-let the same or any part thereof to others for such rent and upon such terms as it may see fit; and if a

sufficient sum shall not be thus realized after repaying all expenses of re-taking and re-letting said cars and collecting the rentals thereof, to satisfy the rentals herein reserved, the Lessee agrees to satisfy and pay the deficiency from time to time upon demand. The obligation to pay such deficiency shall survive such termination of this lease and/or such retaking of the cars. Lessee shall without expense to Lessor assist it in repossessing itself of said cars and shall for a reasonable time if required furnish suitable trackage space for the storage of said cars. The rights and remedies herein given to Lessor shall in no way limit its rights and remedies given or provided by law or in equity.

Additional Provisions. Lessee agrees that it will assume the responsibility for the maintenance and replacement of safety valves, angles, and check valves, and if cars are so equipped, the thermometer, gauging device, regulator valves, and safety heads.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed and delivered the day and year first above written.

ATTEST:

James D. O'Connell  
Secretary

MARATHON LEASING COMPANY

By

E. D. Olmo  
President

ATTEST:

\_\_\_\_\_  
Secretary

SHELL OIL COMPANY

By

E. D. Olmo

E. D. OLMO, MANAGER, TRAFFIC OPERATIONS (EO)